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10/649,904	08/26/2003	William T. Harrell	WH-008	5749

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EXAMINER

SAWHNEY, HARGOBIND S

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,904

Applicant(s)

HARRELL ET AL.

Examiner

Hargobind S Sawhney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-25, 27-29 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 3 and 26 are objected to because of the following informalities:

Claim 3, lines 2 and 3, "said container cap includes means for removable attachment to a conventional container cap element" is not clear. The phrase "the container cap removably attachable to a conventional container cap" indicates a cap to be attached to another cap, which is confusing.

Claim 26, line 3, "guiding means" should be rephrased as light guide means, as detailed in the specification, for definite recitation.

Appropriate correction is required.

Claim 3 of the instant application has been examined considering the claimed cap of the container means includes means enabling it to be removably attached to any other conventional container receptacle.

Claim 26 has been examined considering the above-suggested recitation.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 10, 12, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Dubinin et al. (WO 01/90640 A1) hereinafter referred as Dubinin.

Regarding claims 1-6, 10, 12, Dubinin discloses an illuminating apparatus (Figure 1) comprising:

- A container cap 7, the combination of elements 7 and 2, attachable to the container receptacle 1 (Figure 1, English translated abstract);
- an illumination means 4 at least partially enclosed within the container cap (Figure 1, English translated abstract);
- the container cap adapted to direct light beams from the light source 4 to the container label (Figure 1, English translated abstract);
- the light source 4 producing a plurality of light beams (Figure 1, English translated abstract);
- the container cap 7 including means- internal surface frictionally engaged with outer wall surface of the container receptacle (Figure 1) – removably attached to the container receptacle (Figure 1, English translated abstract);
- the container cap 7 including means- tapered internal surface frictionally engaged with the outer wall surface of the container receptacle (Figure 1) – removably attachable to a conventional container receptacle (Figure 1, English translated abstract);
- a container cap insert 8 attached to the container cap 7 (Figure 1, English translated abstract);

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- the downward movement of the container cap insert cover allowing the illuminating source 4 to be energized (Figure 1, English translated abstract);
- the container cap 7 including a switch 5 for energize the illuminating means 4 (Figure 1, English translated abstract);
- the container cap 7 including an energy source – Batteries - for energize the illuminating means 4 (Figure 1, English translated abstract);

Regarding claims 27-29, Dubinin discloses an illuminating apparatus (Figure 1) comprising:

- housing means 7, the combination of elements 7 and 2, couplable to the container 1, and further having one outlet opening (Figure 1, English translated abstract);
- an illumination means 4 within the housing means 7 (Figure 1, English translated abstract);
- illumination controlling means 8 (Figure 1, English translated abstract);
- means – internal surface of the housing 7 engaging with the external surface of the container- for removably attaching the housing means to the container (receptacle) (Figure 1, English translated abstract);
- illuminating means 4 coupled to the container receptacle 1, and the illuminating means 4 capable of illuminating a container label (Figure 1, English translated abstract);

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- the illuminating means 4 being within a cap 7- the combination of elements 4 and 7 being considered as a cap – removably coupled to the container receptacle 1 Figure 1); and
- the illuminating means 4 being a base 7- the combination of elements 4 and 7 being considered as a base – removably coupled to the container;

4. Claims 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Zelensky et al. (US Patent No.: 5,178,450) hereinafter referred as Zelensky.

Regarding claims 23 and 24, Zelensky discloses an illuminating apparatus comprising:

- a housing 16 – including the element 38- couplable to a container 14, and the housing 16 having an opening – with internal threads 25 (Figure 1, column 2, line 50);
- an illuminating means 26 within the housing 16;
- a controlling means 34 (Figure 1, column 2, line 61) positioned within the housing 16, and the controlling means 34 controlling the illumination means 26;
- the housing 16 including means – internal threads 25 – for removably attaching the housing 16 to the container 14.

5. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Wolf (US Patent No.: 4,836,476) hereinafter referred as Wolf.

Wolf discloses an illuminating apparatus (Figure 1) comprising:

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- a container receptacle 2 having an outer wall with an outer surface (Figure 1); the container receptacle 2 coupling to the base 1, and the container receptacle 2 including illuminating means 4 for illuminating the outer surface of the container receptacle 2 (Figure 1, column 1, lines 59-62 and column 2, lines 1-11).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubinin et al. (WO 01/90640 A1), hereinafter referred as Dubinin, in view of Ratcliffe et al. (US Patent No.: 5,785,407).

Regarding claims 1-6, Dubinin discloses an illuminating apparatus (Figure 1) comprising including at least one illuminating mean actuated with a switch. However, Dubinin does not specifically teach the switch being equipped with a timer for putting the illuminating means on actuation for a pre-set period of time.

On the other hand, Ratcliffe et al. ('407) discloses an illuminable container 100 (Figure 7) including an illuminating means 66 actuated with a switch 58 operationally coupled to a timing circuit 80 – timer - (Figures 6 and 7, column 3, lines 51-55).

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It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Dubinin by providing the timer-switch circuitry as taught by Ratcliffe et al. ('407) for benefit and advantage of energy saving during the operation of the device.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubinin et al. (WO 01/90640 A1), hereinafter referred as Dubinin.

Regarding claims 1-6, Dubinin discloses an illuminating apparatus (Figure 1) comprising including at least one incandescent illuminating mean. However, Dubinin does not specifically teach the illuminating means being light emitting diode (LED).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Dubinin by providing LEDs well known in the art for their high energy efficiency, compactness and considerably long operational life.

9. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubinin et al. (WO 01/90640 A1), hereinafter referred as Dubinin in view of Masaki (US Patent No.; 4,736,138).

Dubinin discloses an illuminating apparatus (Figure 1) comprising including a container cap receiving a controller – switch - activating an illuminating means.

However, Dubinin does not teach an illuminating apparatus having a controller with an electrical current limiting means for limiting an electrical current.

On the other hand, Masaki ('138) discloses an apparatus (Figure 1) for limiting surge currents in DC- illuminated incandescent lamp, the apparatus comprising an

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electrical current limiting resister R_4 connected in series to the incandescent lamp L (Figure 1, column 2, lines 14-17).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Dubinin by providing he current limiting means as taught by Masaki ('138) for benefit and advantage of limiting a surge current across the lamp filament of an incandescent lamp, and thus extending its operational life.

Regarding Claim 14, Dubinin in view of Masaki ('138) discloses an apparatus including current limiting means, which operationally varies the brightness of the illuminating means by varying the current supply.

Regarding Claim 15, Dubinin in view of Masaki ('138) discloses an apparatus including current limiting means, However, neither combined nor individual teaching of Dubinin and Masaki ('138) specifically discloses the use of potentiometer for limiting current supply. However, use of potentiometer for gradually variation of either voltage or current supply is well known in art as evidenced in Wood (US Patent No.; 4,772,991).

10. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubinin et al. (WO 01/90640 A1), hereinafter referred as Dubinin, in view of Marchese (US Patent No.: 4,072,855).

Regarding Claim 16, Dubinin discloses an illuminating apparatus (Figure 1) comprising including a container cap receiving at least one illuminating mean actuated with a switch. However, Dubinin does not specifically teach the container cap including at least one surface directing the light beams from the illuminating means.

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On the other hand, Marchese ('855) discloses an illuminable container 13 (Figure 7) including an illuminating means 11 received in a base of a cap shape, and a surface 12 directing the light beams from the illuminating means 11 (Figure 1, column 1, line 68 and column 2, lines 1-3).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Dubinin by providing the light-directing surface as taught by Marchese ('855) for benefit and advantage of high light reflection efficiency and brighter displays.

Regarding Claim 17, Dubinin in view of Marchese ('855) discloses an illuminating apparatus including the light-directing surface being coated with reflective coating (Marchese, Figure 1, column 2, lines 1-3).

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dubinin et al. (WO 01/90640 A1), hereinafter referred as Dubinin, in view of Hoy et al. (US Patent No.: 6,511,196 B1).

Regarding Claim 18, Dubinin discloses an illuminating apparatus (Figure 1) comprising including a container cap receiving a conventional incandescent illuminating mean actuated with a switch. However, Dubinin does not specifically teach the container cap including a printed circuit board containing at least one light source mounted on the printed circuit board, and emitting a plurality of light beams towards the container labels.

On the other hand, Hoy et al. ('196 B1) discloses an illuminating containers 10 and 20(Figures 1 and 2), including a base 64 receiving a printed circuit board 62

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bearing a plurality of illuminating means (LEDs) 60 emitting light beams towards the container label 49 (Figures 1 and 2, column 9, lines 40-45).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Dubinin by replacing the conventional, hard-wired, incandescent illuminating means within the container cap, with LEDs mounted on a circuit board as taught by Hoy et al. ('196 B1) for the advantages of compactness, long operational life, high energy efficiency and cost effective replacement of parts.

12. Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubinin et al. (WO 01/90640 A1), hereinafter referred as Dubinin, in view of Zelensky et al. (US Patent No.: 5,178,450) hereinafter referred as Zelensky.

Regarding Claim 19, Dubinin discloses an illuminating apparatus (Figure 1) comprising including a container cap receiving at least one illuminating mean actuated with a switch. However, Dubinin does not specifically teach the container cap including at least one light-filter.

On the other hand, Zelensky discloses an illuminating jar 10 (Figures 1 and 2), including a light-filter 38 (Figures 1 and 2, column 2, lines 62, 67 and 68, and column 3, lines 1-4).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Dubinin by providing the light-filter as taught by Marchese ('855) for benefit and advantage of rendering colorful novelty for displays.

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Regarding Claims 20-22, Dubinin in view of Zelensky discloses an illuminating apparatus including:

- the light filter 38 changing the color of the light beams from the illuminating means (Zelensky, Figures 1 and 2, column 3, lines 1-4);
- the color-filter 38 diffusing the light beams from the illuminating means (Zelensky, Figures 1 and 2, column 2, lines 62, 67 and 68 and column 3, lines 1-4);
- the color filter 38 being semi-circular (Zelensky, Figures 1 and 2, column 3, lines 1-4), and thus directing and focusing the light beams onto the container labels (Dubinin, Figure 1, English translated abstract). ;

13. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zelensky et al. (US Patent No.: 5,178,450) hereinafter referred as Zelensky in view of Masaki (US Patent No.; 4,736,138).

Zelensky discloses an illuminating apparatus comprising:

- a controlling, including an element 34, (Figure 1, column 2, line 61) positioned within the housing 16; and
- the controlling means including an electrical energy means 32 and electrical switching means 34 connecting the electrical energy means 32 to the illuminating means 26.

However, Zelensky does not teach an illuminating apparatus having a controller with an electrical current limiting means for limiting an electrical current.

On the other hand, Masaki ('138) discloses an apparatus (Figure 1) for limiting surge currents in DC- illuminated incandescent lamp, the apparatus comprising an electrical current limiting resistor R_4 connected in series to the incandescent lamp L (Figure 1, column 2, lines 14-17).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illuminating apparatus of Zelensky by providing he current limiting means as taught by Masaki ('138) for benefit and advantage of limiting a surge current across the lamp filament of an incandescent lamp, and thus extending its operational life.

14. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf (US Patent No.: 4,836,476), hereinafter referred as Wolf, in view of Boutilier (US Patent Application Pub. No.: 2003/00115781 A1) hereinafter referred as Boutilier.

Regarding Claim 32, Wolf discloses an illuminating apparatus (Figure 1) comprising:

- a container receptacle 2 having an outer wall with an outer surface (Figure 1); the container receptacle coupling to the base 1, and the receptacle coupled to an illuminating means 4 for illuminating the outer surface of the container receptacle 2 (Figure 1, column 1, lines 59-62 and column 2, lines 1-11).

However, Wolf does not specifically teach the outer surface of the container having a label. On the other hand, Boutilier discloses a bottle 10 with a label 20 on its outer surface 14 (Figure 3).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the bottle with an illuminating means of Wolf by providing a label as taught by Boutilier benefit and advantage of making the display visible in dark, and increase its ornamental value.

In addition, it would be have been obvious to one of ordinary skill in the art at the time of the invention to meet the method limitations of claim 32 by applying combined teaching of Wolf and Boutilier.

Regarding Claim 32, neither combined nor individual teaching of Wolf and Boutilier specifically teaches the coupling of the illuminating means and a medicine container. On the other hand, Wolf in view of Boutilier discloses an illuminating means illuminating a container other than a medicine container.

It has been held that a recitation with respect to the manner in which a claim apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitation.

Allowable Subject Matter

15. Claims 8, 9 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The prior art of record, including Zelensky et al. (US Patent No.: 5,178,450), Dubinin et al. (WO 01/90640 A1) and Wolf (US Patent No.: 4,836,476), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose an illuminating apparatus combining:

- a container cap including a side-mounted flexible material attached to the cap side as recited in Claim 8;
- a light guide means within the housing means (Cap) for directing light wave to the container label as recited in Claim 26;

Claim 9 is necessarily objected because of its dependency on the objected base Claim 8.

16. Claim 30 is allowed

The prior art of record, including Zelensky et al. (US Patent No.: 5,178,450), Dubinin et al. (WO 01/90640 A1) and Wolf (US Patent No.: 4,836,476), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose an illuminating apparatus combining:

- a container having a removably coupled cap having means for illuminating the outer surface bearing a container label as recited in Claim 30;

The above-indicated combination, including positioning of the resilient seal-receiving slot, makes this invention unique.

Zelensky et al. (US Patent No.: 5,178,450), Dubinin et al. (WO 01/90640 A1) and Wolf (US Patent No.: 4,836,476) each teaches a container having a removably coupled cap having means for illuminating the inner surface. Neither combined nor individual

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teaching of Zelensky et al. (US Patent No.: 5,178,450), Dubinin et al. (WO 01/90640 A1) and Wolf (US Patent No.: 4,836,476) teaches illuminating the outer surface of the container as detailed above.

Therefore, Claim 30 is allowed over prior art.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tai (US Patent No.: 6,793,362 B2), Carson (US Patent No.: 6,254,247 B1), Goldfarb (US Patent No.: 6,086,216), Tucker et al. (US Patent No.: 6,065,848), Rojas et al. (US Patent No.: 5,743,620), Tipton (US Patent No.: 5,575,553, and Tucker (US Patent No.: 5,504,663

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

11/23/2004


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